

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1) NORTHUMBERLAND COUNTY) Civil Action No. 11-cv-00520-D
RETIREMENT SYSTEM and)
2) OKLAHOMA LAW ENFORCEMENT) CLASS ACTION
RETIREMENT SYSTEM, Individually and On)
Behalf of All Others Similarly Situated,)
Plaintiffs,)
vs.)
1) GMX RESOURCES INC.,)
2) KEN L. KENWORTHY, JR.,)
3) JAMES A. MERRILL,)
4) JEFFERIES & COMPANY, INC.,)
5) HOWARD WEIL INCORPORATED,)
6) MORGAN KEEGAN & COMPANY, INC.,)
7) CAPITAL ONE SOUTHCOAST, INC.,)
8) COLLINS STEWART LLC,)
9) PRITCHARD CAPITAL PARTNERS, LLC,)
10) TUDOR, PICKERING, HOLT & CO.)
SECURITIES, INC.,)
11) MERRILL LYNCH, PIERCE, FENNER &)
SMITH INCORPORATED,)
12) BBVA SECURITIES INC.,)
13) FORTIS SECURITIES LLC,)
14) WEDBUSH MORGAN SECURITIES)
INC.,)
15) CREDIT SUISSE SECURITIES (USA))
LLC and)
16) SMITH CARNEY & CO., P.C.,)
Defendants.)

**NORTHUMBERLAND COUNTY RETIREMENT SYSTEM AND
OKLAHOMA LAW ENFORCEMENT RETIREMENT SYSTEM'S
NOTICE OF NON-OPPOSITION TO THEIR MOTION FOR
APPOINTMENT AS LEAD PLAINTIFF AND LEAD COUNSEL**

Northumberland County Retirement System (“Northumberland”) and Oklahoma Law Enforcement Retirement System (“OLERS”) (collectively, “Northumberland-OLERS”) respectfully submit this notice of non-opposition to their motion for appointment as lead plaintiff and approval of lead counsel [Dkt. No. 78].

1. Pursuant to the Private Securities Litigation Reform Act of 1995, any putative class member seeking appointment as lead plaintiff and approval of its selection of lead counsel in this action was required to file a motion by February 3, 2012.

2. Timely motions were filed by two movants: (1) Northumberland-OLERS [Dkt. No. 78]; (2) Berbenich-Janowitz Group [Dkt. No. 71].¹

3. Pursuant to this Court’s Local Rules, “[e]ach party opposing a motion shall file a response ***within 21 days after the date the motion was filed***. Any motion that is not opposed within 21 days may, in the discretion of the Court, be deemed confessed.” LCvR7.1(g) (emphasis added).

4. Thus, any oppositions to the motions filed on February 3, 2012 were required to be filed by February 24, 2012. *See* LCvR7.1(g).

5. Northumberland-OLERS filed a timely opposition the Berbenich-Janowitz Group’s motion on February 24, 2012. *See* Dkt. No. 89. Northumberland-OLERS’ opposition further noted that Northumberland-OLERS were the presumptively most

¹ The “Berbenich-Janowitz Group” includes Timothy Berbenich, Kristy Berbenich and Thomas Janowitz.

adequate plaintiff under the PSLRA because they asserted the largest financial interest in the relief sought by the class and also made a showing of adequacy and typicality.

6. The Berbenich-Janowitz Group did not file an opposition and appears to have abandoned its motion.

7. Accordingly, Northumberland-OLERS' motion appears to be unopposed.

Dated: February 27, 2012

Respectfully submitted,

**NELSON, ROSELIUS,
TERRY & MORTON**

/s/ Jason E. Roselius

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*Counsel for Northumberland-OLERS and
Proposed Co-Lead Counsel*

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following ECF registrants:

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I certify that on the 27th day of February, 2012, I served the attached document by US Postal Service, First Class Delivery, on the following, who are not registered participants of the ECF System:

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/s/ *Jason E. Roselius*